<center>**REMARKS/ARGUMENTS**</center>

Claims 1-6, 9-27 and 30-42 are pending in the present application. Reconsideration of the claims is respectfully requested.

I.   **35 U.S.C. § 103, Obviousness**

Claims 1-6, 9-27 and 30-42 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lowell (U.S. Patent No. 6,012,086), hereinafter "Lowell" in view of Braun et al. (International Publication No. WO 01/50226 A2), hereinafter "Braun", in view of Sena et al. (U.S. Publication No. 2003/0033331 A1), hereinafter "Sena", and further in view of Ben-Shachar et al. (U.S. Publication No. 2003/0169330 A1), hereinafter "Ben-Shachar". This rejection is respectfully traversed.

With respect to Claim 1, such claim recites "converting the media data stream into the *desired format* to form a formatted media data stream, wherein the converting step comprises identifying an initial format of the media data stream, converting the media data stream to a *viewable format*, and converting the media data stream *to the desired format from the viewable format*, wherein the viewable format is a format displayable by an operating system in the data processing system". As can be seen, there are several 'formats' associated with Claim 1 – where the media data stream is converted into the desired format using an intervening viewable format, such that the media stream is first converted to a viewable format, and this viewable format is then used in the conversion to the desired format since there is a conversion to the desired format *from the viewable format* (where such desired format is identified by receiving user input). It is urged that the combined teachings of the cited references do not teach or suggest any conversion to a user specified format *from a viewable format*, as will now be shown in detail.

In rejecting the two-step conversion process for streaming data, where streaming data is converted to viewable format and the desired user-specified format is converted *from* such (intervening) viewable format, the Examiner cites Sena teaching on page 4, paragraph [0063] as teaching such two-step conversion process. Applicants show that there, Sena states:

> [0063] In step 940 the digital media files are processed by the digital media transform module 460. In step 944 *the intermediate digital media file is converted to the desired output format*. In step the 946 digital media output file is converted to the appropriate

device. In optional step 947 graphics, audio, and video is removed and/or transformed so that the output file may be viewed by lower memory devices, such as PDAs or handheld computers. In step 948 this digital media output is placed in the system server 492 for access by the user or other third parties. In step 950 the user is sent an appropriate connection tool to access the digital media or to send to third parties. In another embodiment the user is simply emailed the digital media file if the user so determines that is appropriate delivery mechanism.

As can be seen, per these Sena teachings, the intermediate digital media file is converted to the desired output format. Thus, in order for Sena to teach the two-step conversion process of Claim 1, this Sena intermediate digital media file would have to be in a viewable format, since Claim 1 recites that the desired (user-specified) format is converted *from the viewable format* and Sena teaches that the desired output format is converted from the intermediate digital media file. However, Sena's intermediate digital media file is not in a viewable format, as it is not in a format that is displayable by an operating system in the data processing system (as required by the expressly recited features of Claim 1). Instead, Sena *requires subsequent processing of the desired output format file into a device format* such that it can be viewed (Sena paragraph [0063]; Figure 5B, step 946). Therefore, Sena's intermediate format cannot be reasonably construed to be equivalent to the claimed viewable format since it is not displayable by an operating system as per the expressed features of Claim 1. Thus, it is urged that Claim 1 has been erroneously rejected, as a proper prima facie showing has not been made. [1]

Further with respect to Claim 1, such claim recites "wherein a set of codecs are used to convert the media data stream from the initial format to the viewable format and to convert the media data stream from the viewable format to the desired format". As can be seen, there are a set of codecs that are used for the two-step conversion process. The Examiner expressly acknowledges that Sena does not describe use of codecs in the alleged two-step conversion process (see page 5 of the present Office Action dated 10/08/2008, in the middle of the page), so Sena cannot describe a *particular usage* of codecs in a two-step conversion process, as is

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[1] In rejecting claims under 35 U.S.C. Section 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. *Id.* If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In the absence of a proper *prima facie* case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. *See In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

provided by the features of Claim 1. To the extent that the newly cited reference to Ben-Shachar describes codecs, such reference also fails to teach or suggest the *particular usage* of codecs that are expressly recited in Claim 1 – specifically that a set of codecs are used to *convert* the media data stream from the initial format to the viewable format *and* to *convert* the media data stream from the viewable format to the desired format. Instead, and as further described below, such reference describes a one-to-one relationship between a player and an associated codec algorithm. Thus, it is further urged that Claim 1 has been erroneously rejected due to this additional prima facie obviousness rejection, as the combined teachings of the cited references do not establish a teaching or suggestion of the particular *usage* of a set of codecs in a two-step conversion process as is provided by the expressly recited features of Claim 1.

Still further, Claim 1 recites "wherein a data type of the media data stream is identified upon receipt of the media data stream at the data processing system, and an appropriate codec is selected from amongst a plurality of codecs for use in converting the media data stream from the initial format to the viewable format based upon the data type that is identified". As can be seen, *a data type of the media data stream is identified upon receipt of the media data stream at the data processing system*, and an *appropriate codec is selected from amongst a plurality of codecs* for use in converting the media data stream from the initial format to the viewable format based upon the data type that is identified. In rejecting this appropriate codec selection aspect of Claim 1, the Examiner alleges that the cited Ben-Shachar reference teaches such codec selection at page 1, paragraph [0005], lines 18-20. Applicants show that there, Ben-Shachar states:

> Each such player implements an associated compression/decompression (codec) algorithm to encode and decode audio and video data.

As can be seen, this cited passage states that a given player implements an associated codec algorithm. This one-to-one relationship between a player and a codec algorithm does not teach or suggest "wherein a set of codecs are used to convert the media data stream from the initial format to the viewable format and to convert the media data stream from the viewable format to the desired format" (as alluded to above) or "a data type of the media data stream is identified upon receipt of the media data stream at the data processing system, and *an appropriate codec is selected from amongst a plurality of codecs* for use in converting the media data stream from the initial format to the viewable format *based upon the data type that is identified*", as per the

specific features of Claim 1. Instead, it merely establishes a teaching that a given player has an associated codec algorithm. Due to such one-to-one relationship, where a given player has its own associated codec, there would be no reason to select from amongst a plurality, a plurality of codecs as the player already has its associated codec algorithm provided as a part of the player. Thus, it is further urged that Claim 1 has been erroneously rejected due to this additional prima facie obviousness deficiency, as the cited references do not teach or suggest that the streaming media data is itself used in determining what codec to use for converting such media data from the initial format to the viewable format.

Applicants traverse the rejection of Claims 2-6 and 9-16 for reasons given above with respect to Claim 1 (of which Claims 2-6 and 9-16 depend upon).

Applicants traverse the rejection of Claims 17-27 and 30-42 for similar reasons to those given above with respect to Claim 1.

Therefore, the rejection of Claims 1-6, 9-27 and 30-42 under 35 U.S.C. § 103 has been overcome.

II.   Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

/Wayne P. Bailey/

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